

**UNITED STATES NAVY-MARINE CORPS
COURT OF CRIMINAL APPEALS
WASHINGTON, D.C.**

**Before
C.L. REISMEIER, J.A. MAKSYM, R.E. BEAL
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**BRANDON D. HURST
PRIVATE (E-1), U.S. MARINE CORPS**

**NMCCA 201000173
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 21 January 2010.

Military Judge: Maj Stephen Keane, USMC.

Convening Authority: Commanding Officer, Headquarters and
Support Battalion, School of Infantry (WEST), Training
Command, Camp Pendleton, CA.

Staff Judge Advocate's Recommendation: LtCol J.L. Gruter,
USMC.

For Appellant: CAPT Paul Jones, JAGC, USN.

For Appellee: Mr. Brian Keller, Esq.

15 June 2010

OPINION OF THE COURT

**IN ACCORDANCE WITH RULE 18.2, NMCCA RULES OF PRACTICE AND PROCEDURE, THIS
OPINION DOES NOT SERVE AS PRECEDENT.**

PER CURIAM:

The appellant served 129 days of pretrial confinement. His pretrial agreement required the Government to suspend all confinement in excess of 120 days. In accordance with the pretrial agreement and based upon the recommendation of the staff judge advocate, the convening authority approved the 165 days of confinement adjudged, and suspended all confinement in excess of 120 days, despite the nine additional days the

appellant served in confinement. To avoid exposing the appellant to the possibility of serving confinement already served, we direct that the supplemental court-martial order reflect that confinement in excess of time served, or 129 days, be suspended for a period of 12 months from the date of trial. Otherwise, we find that no error materially prejudicial to the substantial rights of the appellant occurred. Articles 59(a) and 66(c), UCMJ. We affirm the findings and the sentence as approved by the convening authority.

For the Court

R.H. TROIDL
Clerk of Court